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SINGAPORE BUS SERVICE [1978] LTD.

v.

LIM SOON YONG (M.W)

COURT OF APPEAL, SINGAPORE

b

T KULASEKARAM J

TS SINNATHURAY J

FA CHUA J

[CIVIL APPEAL NO. 18 OF 1983]

7 SEPTEMBER 1983

*TORT: Motor accident - Damages - Dependency claim.**c**DAMAGES: Increase in dependency claim - Whether proper principle applied - Dependency from CPF - Whether part of dependency claim.**d*

The respondent brought an action under s. 12(8) Civil Law Act (Cap. 30), as the widow of Kwan Yat Hong for the benefit of his dependents. Kwan Yat Hong was killed whilst driving a motor car which collided with a motor bus driven by the servant of the appellants. Judgment by consent was given for the respondent. Damages were assessed by the Assistant Registrar. On the respondent's appeal the dependency claim was increased, and an award of \$44,856/- as dependency from the Central Provident Fund (CPF) was ordered to remain. The appellant appealed.

Held:*e*

[1] The Assistant Registrar had failed to take into account the pecuniary loss which it was estimated the dependents sustained in the future. The Judge, on the other hand, had applied proper principles when assessing the damages. (*Cookson v. Knowles* [1978] 2 All ER 604).

[2] The CPF contributions did form part of the widow dependency claim. Had the deceased lived to the age of 55, widow and children would have benefited from the contribution.

*f**[Appeal dismissed.]***Case referred to:***Cookson v. Knowles* (1978) 2 All ER 604**Legislation referred to:**

Civil Law Act [Sing], s. 12(8)

*g**For the appellants - Y. H. Cheong**For the respondent - D. Murphy***JUDGMENT****FA Chua J:***h*

This appeal arises from an action by the respondent against the appellants. The respondent brought the action under s. 12(8) of the Civil Law Act (Cap. 30) the widow of Kwan Yat Hong for the benefit of the dependants of Kwan Yat Hong who was killed whilst driving a motor car which collided with a motor bus driven by the servant of the appellants along Commonwealth Avenue West on 26 May 1979.

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When the action came on for hearing on 15 October 1982, judgment by consent was given for the respondent and damages were ordered to be assessed by the Registrar and costs to be taxed.

On 31 January 1983, the Assistant Registrar assessed the damages at the sum of \$3,000 for funeral expenses, \$59,808 to the respondent as dependency under s. 12, \$44,856 to the respondent as dependency from the Central Provident Fund (CPF) and \$13,896 to the respondent for the mother of the deceased as a dependant. a

The respondent appealed against the decision of the Assistant Registrar, Wahab Ghows J, increased to \$148,000 the dependency claim of the respondent and ordered that the award of \$44,856 as dependency from the CPF to remain. b

The appellants are dissatisfied with the judgment of Wahab Ghows J increasing the dependency claim of the respondent from \$59,808 to \$148,000 and awarding the dependency of \$44,856 from the CPF.

The appellants say that the increase of the dependants claim to the respondent to \$148,000 was not justified by the evidence before the learned Judge. c

The learned Judge did not in fact increase the dependency claim of the respondent from \$59,808 to \$148,000. The learned Judge increased it to \$128,000. \$20,000 of the \$148,000 was for the mother.

In calculating the damages to be awarded the Assistant Registrar took the respondent's dependency to be \$400 p.m. and applying a multiplier of 20 years purchase this came to \$59,808. d

The deceased was aged 32. He was in a steady job as a store purchasing officer. The evidence was that in April, 1979, he was drawing a basic salary of \$950 p.m. If he had not died he would have been promoted to materials manager and would be getting \$2,000 p.m. in July 1981, and \$2,200 p.m. in 1982 like Mr. Lee who was recruited in September 1979, to take the deceased's place. The deceased died in May 1979, and his position had to be filled. e

The Assistant Registrar when taking the respondent's dependency to be \$400 p.m. had failed to take into account the pecuniary loss which it was estimated the dependant would sustain in the future.

In *Cookson v. Knowles* [1978] 2 All ER 604 the House of Lords held: f

(i) In the current financial climate a more reliable assessment of the loss sustained by a dependant as a result of the deceased's death could be obtained in normal fatal accident cases if the damages were split into two parts (a) the pecuniary loss which it was estimated had been sustained by the dependant from the date of death until the date of trial ('the pre-trial loss'), and (b) the pecuniary loss which it was estimated the dependant would sustain from the trial onwards ('the future loss') for which the proper multiplicand was the figure to which it was estimated the annual dependency would have amounted by the date of the trial and damages should as a general rule be assessed in that way in such cases. g

The case of *Cookson v. Knowles* was cited to the learned Judge and he must have applied the principles laid down in that case when assessing the damages.

It seems to us that the learned Judge has applied the correct principles and we cannot say that he has erred in law and in fact as submitted by the appellants. h

The contention of the appellants is that the CPF contributions cannot form part of a dependency claim. It is money held in trust by the CPF Board and when the contributor reaches the age of 55 it would go to the contributor. If the contributor dies before the age of 55 the money is paid to the nominee but not as a dependant. It is not money on which the family depends on from day to day. i

- a* We are unable to accept the contention of the appellants. CPF contributions are not chargeable with estate duty. The money does not go to the estate of the contributor. In this case it goes to the widow and the parents of the deceased. Had the deceased lived to the age of 55 he would have withdrawn the sum standing to his credit in the CPF and the widow and children would necessarily have benefited from the deceased having this money if not for this accident. In our view, therefore, the CPF contributions do form part of the widow's dependency claim.
- b*

Since there is no appeal on the quantum we will not disturb the award under this head.
For these reasons this appeal is dismissed with costs.

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Also found at [1984] 1 CLJ 56

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